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Paper No. 8

H.B. FULLER COMPANY
PATENT DEPARTMENT
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ST PAUL MN 55164-0683

In re Application of: G. Mueller et al.
Application No. 09/193,889
Filed: November 18, 1998
For: MOISTURE ACTIVATED
REINFORCEMENT STRING AND TEAR
OPENING TAPES FOR CORRUGATED
AND CARTONSTOCK CONTAINERS

DECISION ON PETITION UNDER
37 CFR §1.181 TO WITHDRAW
HOLDING OF ABANDONMENT

This is a decision on the petition, filed January 16, 2002, under 37 C.F.R. §1.181 requesting the holding of abandonment be withdrawn in the above-identified application.

This petition is **DISMISSED**.

This application was held abandoned for failure to timely file a proper reply to the Office action mailed November 16, 2000 (Paper No. 4). A Notice of Abandonment was mailed November 7, 2001 (Paper No. 6).

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a copy of a certificate of transmission by facsimile, a copy of the response, a petition for a one month extension of time. The copy of the certificate of transmission by facsimile, the copy of the response and the copy of the petition each bear the date of March 16, 2001.

However, applicant's request is deficient in that this application went abandoned prior to the above mentioned Notice of Abandonment. An Office action was mailed March 27, 2000 to the HB Fuller Company, Patent Department, 1200 Willow Lake Blvd, St. Paul MN 55110-5101. A change of address was filed July 6, 2000, more than three months after the Office action was mailed. The new address differed from the previous address only by adding a box number and changing the zip code. The Office action was then remailed on November 16, 2000. The mailing address on this communication was the previous address, not the address appearing in the change of address of July 6, 2000. The copy of the response submitted states that it is in reply to the action of November 16, 2000, indicating that applicant received that action.

Initially, applicant has not asserted or shown that either of the above mentioned Office actions was *not* received. Further, the remailing took place more than 6 months *after* the mailing of the Office action of March 27, 2000. There are no communications of record from applicant between March 27, 2000 and the date of remailing on November 16, 2000 other than the change of address. As the statutory period for response to the Office action of March 27, 2000 had expired before November 16, 2000, the application was abandoned prior to the remailing. As there is no authority for remailing an Office action in an abandoned case outside a granted petition under 37 C.F.R. §1.137 to revive the application, petitioner's assertions related to filing a response on March 16, 2001 have no impact on the status of the case.

Accordingly, the petition is **DISMISSED**. This application remains abandoned. If the petitioner desires further review of this decision, applicant should file a Request for Reconsideration within TWO MONTHS of the mailing date of this decision. Alternatively, applicant may wish to consider filing a petition under 37 C.F.R. §1.137 to revive the application.



John J. Love, Director
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& Electronic Commerce